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7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA (RENO)

9 PATRICK H. MCGUIRE, an individual )  
10 and LISA ANN MCGUIRE, an individual, )

CASE NO. 3:20-cv-00249-RCJ-CLB

11 Plaintiffs, )

12 vs. )

13 ANNE MARIE CAREY, an individual, )  
14 CAREY TRUST, a testamentary trust, )  
15 ANTONETTE D. SHAW, an individual, )  
16 MAXED PROFESSIONALS, LLC, a )  
17 Nevada limited liability company; )  
18 RE/MAX, LLC, a Delaware limited )  
19 liability company; and RE/MAX )  
HOLDINGS, INC., a Delaware )  
corporation; JOSEPH HENRY, in his )  
individual capacities; and THE CITY OF )  
RENO, a municipal entity. )

STIPULATED PROTECTIVE ORDER

Defendants. )

20 In order to protect the confidentiality of confidential information obtained by the parties  
21 in connection with this case, the parties hereby agree as follows:

22 1. This action is likely to involve trade secrets, customer and pricing lists and other  
23 valuable research, development, commercial, financial, technical and/or proprietary information  
24 for which special protection from public disclosure and from use for any purpose other than  
25 prosecution of this action is warranted. Such confidential and proprietary materials and  
26 information consist of, among other things, confidential business practices, or other confidential  
27 research, development, or commercial information (including information implicating privacy  
28 rights of third parties), information otherwise generally unavailable to the public, or which may

1 be privileged or otherwise protected from disclosure under state or federal statutes, court rules,  
2 case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate  
3 the prompt resolution of disputes over confidentiality of discovery materials, to adequately  
4 protect information the parties are entitled to keep confidential, to ensure that the parties are  
5 permitted reasonably necessary uses of such material in preparation for and in the conduct of  
6 trial, to address their handling at the end of the litigation, and to serve the ends of justice, a  
7 protective order for such information is justified in this matter. It is the intent of the parties that  
8 information will not be designated as confidential for tactical reasons and that nothing be so  
9 designate without a good faith belief that it has been maintained in a confidential, non-public  
10 manner, and there is good cause why it should not be part of the public record in this case.

11       2. Any party or non-party may designate as “confidential” (by stamping the relevant  
12 page or as otherwise set forth herein) any document including electronically stored information  
13 (“ESI”) or responses to discovery which that party or non-party considers in good faith to contain  
14 information involving trade secrets, or confidential business or financial information, subject to  
15 protection under the Federal Rules of Civil Procedure or Nevada law (“Confidential  
16 Information”). Where a document or response consists of more than one page, the first page and  
17 each page on which confidential information appears shall be so designated.

18       3. A party or non-party may designate information disclosed during a deposition or  
19 in response to written discovery as “confidential” by so indicating in said response or on the  
20 record at the deposition and requesting the preparation of a separate transcript of such material.  
21 Additionally a party or non-party may designate in writing, within twenty (20) days after receipt  
22 of said responses or of the deposition transcript for which the designation is proposed, that  
23 specific pages of the transcript and/or specific responses be treated as “confidential” information.  
24 Any other party may object to such proposal, in writing or on the record. Upon such objection,  
25 the parties shall follow the procedures described in paragraph 11 below. After any designation  
26 made according to the procedure set forth in this paragraph, the designated documents or

1 information shall be treated according to the designation until the matter is resolved according to  
2 the procedures described in paragraph 11 below, and counsel for all parties shall be responsible  
3 for marking all previously unmarked copies of the designated material in their possession or  
4 control with the specified designation.

5         4. Confidential Information may be additionally designated “Confidential -  
6 Attorneys Eyes Only” by counsel for the Producing Party for the purpose of identifying  
7 particularly sensitive Confidential Information relating to current or prospective research and  
8 development, technical documents relating to current or prospective products, financial  
9 information (including, but not limited to, amount or source of any income, profits, losses, or  
10 expenditures, sales information, and pricing information), marketing or business plans, and the  
11 names or other information tending to reveal the identities of a party’s present or prospective  
12 customers, vendors, listeners, or advertisers.

13         5. All information produced or exchanged in the course of this case (other than  
14 information that is publicly available) shall be used by the party or parties to whom the  
15 information is produced solely for the purpose of this case.

16         6. Each party or non-party that designates information or items for protection under  
17 this Order must take care to limit any such designation to specific material that qualifies under  
18 the appropriate standards. The Designating Party must designate for protection only those parts  
19 of material, documents, items, or oral or written communications that qualify so that other  
20 portions of the material, documents, items, or communications for which protection is not  
21 warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or  
22 routinized designations are not permitted under this Order, and designations which are shown to  
23 be clearly unjustified or that have been made for an improper purpose (e.g. to unnecessarily  
24 encumber the case development process or to impose unnecessary expenses or burdens on the  
25 other parties) may expose the Designating Party to sanctions. If it comes to a Designating  
26 Party’s attention that information or items that it designated for protection do not qualify for  
27

1 protection, that Designating Party must promptly notify all other Parties that it is withdrawing the  
2 inapplicable designation.

3 7. Except with the prior written consent of other parties, or upon prior order of this  
4 Court obtained upon notice to opposing counsel, Confidential Information shall not be disclosed  
5 to any other person than:

- 6 (a) counsel for the respective parties to this litigation, including in-house counsel and  
7 co-counsel retained for this litigation;
- 8 (b) employees of such counsel and non-employee personnel engaged by counsel on a  
9 contract basis;
- 10 (c) individual defendants, class representatives, any officer or employee of a party, to  
11 the extent deemed necessary by Counsel for the prosecution or defense of this  
12 litigation;
- 13 (d) consultants or expert witnesses retained for the prosecution or defense of this  
14 litigation, provided that each such person shall execute a copy of the Certification  
15 annexed to this Order as Exhibit "A" (which shall be retained by counsel to the  
16 party so disclosing the Confidential Information and made available for inspection  
17 by opposing counsel during the pendency or after the termination of the action  
18 only upon good cause shown and upon order of the Court) before being shown or  
19 given any Confidential Information and provided that if the party chooses a  
20 consultant or expert employed by [The Corporate Defendant] or one of its  
21 competitors (as listed on Appendix A), the party shall notify the opposing party,  
22 or designating non-party, before disclosing any Confidential Information to that  
23 individual and shall give the opposing party an opportunity to move for a  
24 protective order preventing or limiting such disclosure;
- 25 (e) any authors or recipients of the Confidential Information;
- 26 (f) the Court, Court personnel, and court reporters; and

(g) witnesses (other than persons described in paragraph 4(e)). A witness shall sign the Certification before being shown a confidential document. Confidential Information may be disclosed to a witness who will not sign the Certification only in a deposition at which the party who designated the Confidential Information is represented or has been given notice that Confidential Information shall be designated “Confidential” pursuant to paragraph 2 above. Witnesses shown Confidential Information shall not be allowed to retain copies.

8. Any persons receiving Confidential Information shall not reveal or discuss such information to or with any person who is not entitled to receive such information, except as set forth herein.

9. Unless otherwise permitted by statute, rule or prior court order, papers filed with the court under seal shall be accompanied by a contemporaneous motion for leave to file those documents under seal, and shall be filed consistent with the court’s electronic filing procedures in accordance with Local Rule IA 10-5. Notwithstanding any agreement among the parties, the party seeking to file a paper under seal bears the burden of overcoming the presumption in favor of public access to papers filed in court. *Kamakana v. City and County of Honolulu*, 447 F.2d 1172 (9<sup>th</sup> Cir. 2006); *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 677-78 (9<sup>th</sup> Cir. 2010).

10. A party may designate as “Confidential” documents or discovery materials produced by a non-party by providing written notice to all parties of the relevant document numbers or other identification within thirty (30) days after receiving such documents or discovery materials. Any party or non-party may voluntarily disclose to others without restriction any information designated by that party or non-party as confidential, although a document may lose its confidential status if it is made public.

11. If a party contends that any material is not entitled to confidential treatment, such party may at any time give written notice to the party or non-party who designated the material. The party or non-party who designated the material shall have thirty (30) days from the receipt of

1 such written notice to apply to the Court for an order designating the material as confidential.  
2 The party or non-party seeking the order has the burden of establishing that the document is  
3 entitled to protection.

4 12. Notwithstanding any challenge to the designation of material as Confidential  
5 Information, all documents shall be treated as such and shall be subject to the provisions hereof  
6 unless and until one of the following occurs:

7 (a) the party or non-party who claims that the material is Confidential Information  
8 withdraws such designation in writing; or

9 (b) the party or non-party who claims that the material is Confidential Information  
10 fails to apply to the Court for an order designating the material confidential within  
11 the time period specified above after receipt of a written challenge to such  
12 designation; or

13 (c) the Court rules the material is not confidential.

14 13. All provisions of this Order restricting the communication or use of Confidential  
15 Information shall continue to be binding after the conclusion of this action, unless otherwise  
16 agreed or ordered. Upon conclusion of the litigation, a party in the possession of Confidential  
17 Information, other than that which is contained in pleadings, correspondence, and deposition  
18 transcripts, shall either (a) return such documents no later than sixty (60) days after conclusion of  
19 this action to counsel for the party or non-party who provided such information, or (b) destroy  
20 such documents within the time period upon consent of the party who provided the information  
21 and certify in writing within thirty (30) days that the documents have been destroyed.

22 14. Any receiving party that knows that it intends to present Confidential Information  
23 of another party in oral form at trial, or during any pre-trial or post-trial hearing, shall first notify  
24 the Court and the Producing Party a reasonable amount of time in advance. Nothing herein shall  
25 be deemed to preclude the admission into evidence of any materials covered by this Protective  
26 Order, although the parties have reserved all rights to object to the admissibility of any such  
27 material. Any Confidential Information admitted into evidence, shall be admitted into evidence  
28 in an appropriate manner to protect the confidentiality of the materials.

1           15.     Nothing herein shall be deemed to waive any applicable privilege or work product  
2 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material  
3 protected by privilege or work product protection.

4           16.     Any witness or other person, firm or entity from which discovery is sought may be  
5 informed of and may obtain the protection of this Order by written request to the parties'  
6 respective counsel or by oral request at the time of any deposition or similar proceeding.

7           DATED this 24<sup>th</sup> day of August, 2020.

8 ROGERS, MASTRANGELO, CARVALHO  
9 & MITCHELL

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**Stipulated Protective Order**  
CASE NO. 3:20-cv-00249-RCJ-CLB

**ORDER**

IT IS SO ORDERED this 24th day of August, 2020.

  
\_\_\_\_\_  
U.S. MAGISTRATE JUDGE



**CERTIFICATION**

I hereby certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated \_\_\_\_\_, in McGuire v. Carey, et al., Case No. 3:20-cv-00249-RCJ-CLB. I have been given a copy of that Order and read it. I agree to be bound by the Order. I will maintain all such Confidential Information - including copies, notes, or other transcriptions made therefrom - in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information - including copies, notes or other transcriptions made therefrom - to the counsel who provided me with the Confidential Information, I hereby consent to the jurisdiction of the United States District Court for the purpose of enforcing the Protective Order.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Name

Retained by:

\_\_\_\_\_  
Name of party

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**EXHIBIT “A”**